

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 615
PROPOSED HOUSE COMMITTEE SUBSTITUTE S615-PCS15364-CI-25

Short Title: Adoption/Conflict Int/Guard Ad Litem Changes.

(Public)

Sponsors:

Referred to:

April 6, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW ADULT ADOPTEES TO BE ADOPTED BY A FORMER
3 STEPPARENT, THE REMOVAL OF CERTAIN REDACTION RESTRICTIONS FROM
4 ADOPTION HOME STUDIES, THE EXPANSION OF ACKNOWLEDGMENT OPTIONS
5 FOR AGENCY RELINQUISHMENTS FOR ADOPTION, CONFLICTS OF INTEREST IN
6 JUVENILE MATTERS, AND GUARDIAN AD LITEM APPOINTMENT FOR
7 UNEMANCIPATED MINORS.

8 The General Assembly of North Carolina enacts:

9
10 **PART I. ADOPTION OF ADULT ADOPTEE BY FORMER STEPPARENT**

11 **SECTION 1.1.** G.S. 48-1-101 is amended by adding a new subdivision to read:

12 "(7a) "Former stepparent" means an individual who was the spouse of a parent of a
13 child, but who is not a genetic parent or adoptive parent of the child, and who
14 has become divorced from the parent of the child."

15 **SECTION 1.2.** G.S. 48-1-106 reads as rewritten:

16 **"§ 48-1-106. Legal effect of decree of adoption.**

17 ...
18 (c) ~~A~~ Subject to subsection (d) of this section, a decree of adoption severs the relationship
19 of parent and child between the individual adopted and that individual's biological or previous
20 adoptive parents. After the entry of a decree of adoption, the former parents are relieved of all
21 legal duties and obligations due from them to the adoptee, except that a former parent's duty to
22 make past-due payments for child support is not terminated, and the former parents are divested
23 of all rights with respect to the adoptee.

24 (d) ~~Notwithstanding any other provision of this section, neither an adoption by a~~
25 ~~stepparent nor a readoption pursuant to G.S. 48-6-102 has any effect on the relationship between~~
26 ~~the child and the parent who is the stepparent's spouse.~~ a decree of adoption shall not affect the
27 relationship between the child and the parent who is the stepparent's spouse or the stepparent's
28 former spouse in any of the following circumstances:

29 (1) An adoption by a stepparent.

30 (2) An adoption of an adult adoptee by a former stepparent who is unmarried or
31 whose current spouse does not join in the petition.

32 (3) A readoption pursuant to G.S. 48-6-102.

33"

34 **SECTION 1.3.** G.S. 48-5-101(b) reads as rewritten:



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1 "(b) If a prospective adoptive parent is married, both spouses must join in the petition
2 unless the prospective adoptive parent is the adoptee's ~~stepparent~~stepparent, former stepparent,
3 or ~~unless~~ the court waives this requirement for cause."
4

5 **PART II. REDACTION OF INFORMATION FROM ADOPTION HOME STUDY**

6 **SECTION 2.1.** G.S. 48-3-202(b) reads as rewritten:

7 "(b) Information about a prospective adoptive parent shall be provided to a prospective
8 placing parent or guardian by the prospective adoptive parent, the prospective adoptive parent's
9 attorney, or a person or entity assisting the parent or guardian. Except as otherwise provided in
10 this subsection, this information shall include the preplacement assessment prepared pursuant to
11 Part 3 of this Article, and may include additional information requested by the parent or guardian.
12 ~~The agency preparing the preplacement assessment may redact from the preplacement~~
13 ~~assessment the information described in G.S. 48-3-303(e)(12).~~The information described in
14 G.S. 48-3-303(c)(12) may be redacted from the preplacement assessment."

15 **SECTION 2.2.** G.S. 48-3-303(c)(12) reads as rewritten:

16 "(12) ~~The agency preparing the preplacement assessment may redact following~~
17 information may be redacted from the preplacement assessment provided to a
18 placing parent or ~~guardian~~guardian: (i) detailed information reflecting the
19 prospective adoptive parent's income, expenditures, assets, liabilities, and
20 social security numbers, ~~and~~ ~~(ii)~~ (ii) detailed information about the prospective
21 adoptive parent's extended family members, including surnames, names of
22 employers, names of schools attended, social security numbers, telephone
23 numbers and addresses, and (iii) other similarly detailed information about
24 extended family members obtained under subsections (b) and (c) of this
25 section."
26

27 **PART III. EXPAND ACKNOWLEDGMENT OPTIONS FOR AGENCY** 28 **RELINQUISHMENTS FOR ADOPTION**

29 **SECTION 3.1.** G.S. 48-3-702(b) reads as rewritten:

30 "(b) The provisions of G.S. 48-3-605(b), (e), (f), ~~and (g)~~ (g), and (h) also apply to a
31 relinquishment executed under this Part."
32

33 **PART IV. CONFLICTS OF INTEREST IN JUVENILE MATTERS**

34 **SECTION 4.1.** Article 3 of Subchapter I of Chapter 7B of the General Statutes is
35 amended by adding a new section to read:

36 "§ 7B-302.1. Conflicts of interest.

37 (a) A conflict of interest may exist when the reported abuse, neglect, or dependency
38 involves any of the following:

- 39 (1) An employee of the child welfare division of the county department of social
40 services.
- 41 (2) A relative of an employee of the child welfare division of the county
42 department of social services.
- 43 (3) An employee of the county department of social services or relative of an
44 employee of the county department of social services outside of the child
45 welfare division when, in the professional judgment of the director, the county
46 department of social services has a possible conflict of interest.
- 47 (4) A foster parent supervised by the county department of social services.
- 48 (5) The county manager, an assistant county manager, a member of the Board of
49 County Commissioners, or a member of the county's governing board for
50 social services, as defined in G.S. 108A-1.
- 51 (6) A caretaker in a sole-source contract group home.

1 (7) A juvenile's parent, guardian, custodian, or caretaker who has been
2 determined to be an incompetent adult and subject to guardianship under
3 Chapter 35A of the General Statutes and is a ward, as defined in
4 G.S. 35A-1101, of that county department of social services.

5 (8) A juvenile in the custody of the department who is also a parent or caretaker.

6 (9) A juvenile who is subject to a new report of abuse or neglect arising from
7 events that occurred while in the custody of the department.

8 (10) A perceived conflict of interest that is identified through the professional
9 judgment of the director of the county department of social services.

10 (b) The director of the county department of social services that receives the report where
11 the possible conflict exists shall request that another county department conduct the assessment.
12 The director shall notify the Division of Social Services of the Department of Health and Human
13 Services of the possible conflict of interest and the county that accepted the report for assessment.

14 (c) If the director makes requests of two or more other counties, and if no other county is
15 willing or able to accept the case for assessment, then the county director where the possible
16 conflict exists shall notify the Division of Social Services of the Department of Health and
17 Human Services. The Division shall evaluate the possible conflict and make the following
18 determinations:

19 (1) Whether the county with the possible case conflict is able to manage the case
20 by implementing measures to sufficiently obviate the possible conflict.

21 (2) If the Division determines the possible conflict cannot be managed in the
22 county that receives the report, the Division shall appoint another county
23 department that shall assume management of the case.

24 (3) The Division shall determine which county should bear the financial
25 responsibility of the case when another county is appointed to manage the case
26 unless the counties agree between themselves.

27 (d) The county department of social services with the possible conflict of interest shall
28 inform, in writing, the parent, guardian, custodian, or caretaker of the possible conflict and the
29 county that assumes the management of the case. The written notice shall include a copy of the
30 AOC form petition or motion to request a change of venue based upon a possible conflict of
31 interest.

32 (e) If the county department of social services has a possible conflict of interest at the
33 time of the report or any time while managing the case and the county department of social
34 services does not refer the case to another county, a parent, guardian, custodian, caretaker,
35 juvenile, or their representative may seek to have the case transferred to another county by one
36 of the following methods:

37 (1) If no petition alleging abuse, neglect, or dependency has been filed, the parent,
38 guardian, custodian, caretaker, juvenile, or their representative may file a
39 petition with the district court which regularly hears juvenile matters in the
40 county where the conflict of interest may exist. The petition shall be served
41 on the director of the county department of social services alleged to have the
42 possible conflict of interest pursuant to G.S. 1A-1, Rule 4. A petition filed
43 pursuant to this subsection shall be considered confidential and shall not be
44 public record. If a petition alleging abuse, neglect, or dependency is later filed,
45 the petition alleging the conflict of interest and any subsequent filings shall be
46 transferred to the juvenile court file.

47 (2) If the county has filed a petition alleging abuse, neglect, or dependency, the
48 parent, guardian, custodian, caretaker, juvenile, or their representative may
49 file a motion to change venue in the pending action. The motion shall be
50 served on all parties to the juvenile proceeding pursuant to G.S. 1A-1, Rule 5.

1 In any petition or motion filed pursuant to this subsection, the parent, guardian, custodian,
2 caretaker, juvenile, or their representative must allege the reasons a conflict of interest may exist.
3 Within 10 business days of when the petition or motion is served or the next scheduled juvenile
4 court session, whichever occurs later, the petition or motion shall be heard. Any person or party
5 served with notice of the petition or motion pursuant to this subsection may request to be heard
6 by the court and present evidence. The hearing shall be conducted in accordance with
7 G.S. 7B-801. The order shall be entered within three business days of the hearing."

8 **SECTION 4.2.** G.S. 7B-400(c) reads as rewritten:

9 "(c) For good cause, the court may grant a motion for a change of venue before
10 adjudication. A pre-adjudication change of venue shall not affect the identity of the
11 ~~petitioner~~ petitioner, unless a possible conflict of interest arising under G.S. 7B-302.1
12 necessitates a substitution of parties."

13 **SECTION 4.3.** The Administrative Office of the Courts (AOC) shall create forms to
14 serve as the petition and motion required by G.S. 7B-302.1(e) as enacted by Section 4.1 of this
15 act. The form must provide the parent, guardian, custodian, caretaker, juvenile, or their
16 representative sufficient space to describe the reasons they allege a conflict of interest may exist.
17 The forms shall be made available on AOC's website. Additionally, upon request of the parent,
18 guardian, custodian, caretaker, juvenile, or their representative, the clerk of superior court of each
19 county and the county department of social services shall provide the appropriate form to enable
20 the parent, guardian, custodian, caretaker, juvenile, or their representative to request judicial
21 review of the possible conflict of interest. AOC shall develop a procedure to maintain the
22 confidentiality of the petition required by G.S. 7B-302.1(e)(1) as enacted by Section 4.1 of this
23 act.

24 **SECTION 4.4.** Section 4.3 of this act is effective when it becomes law. The
25 remainder of this Part becomes effective October 1, 2023, and applies to all actions filed or
26 pending on or after that date.

27 **PART V. GUARDIAN AD LITEM APPOINTMENT FOR UNEMANCIPATED MINOR**

28 **SECTION 5.1.** G.S. 7B-602 reads as rewritten:

29 **"§ 7B-602. Parent's right to counsel; guardian ad litem.**

30 (a) In cases where the juvenile petition alleges that a juvenile is abused, neglected, or
31 dependent, the parent has the right to counsel and to appointed counsel in cases of indigency
32 unless that person waives the right. When a petition is filed alleging that a juvenile is abused,
33 neglected, or dependent, the clerk shall appoint provisional counsel for each parent named in the
34 petition in accordance with rules adopted by the Office of Indigent Defense Services, shall
35 indicate the appointment on the juvenile summons or attached notice, and shall provide a copy
36 of the petition and summons or notice to the attorney. At the first hearing, the court shall dismiss
37 the provisional counsel if the respondent parent:

- 38 (1) Does not appear at the hearing;
- 39 (2) Does not qualify for court-appointed counsel;
- 40 (3) Has retained counsel; or
- 41 (4) Waives the right to counsel.

42 The court shall confirm the appointment of counsel if subdivisions (1) through (4) of this
43 subsection are not applicable to the respondent parent.

44 The court may reconsider a parent's eligibility and desire for appointed counsel at any stage
45 of the proceeding.

46 (a1) A parent qualifying for appointed counsel may be permitted to proceed without the
47 assistance of counsel only after the court examines the parent and makes findings of fact
48 sufficient to show that the waiver is knowing and voluntary. The court's examination shall be
49 reported as provided in G.S. 7B-806.
50

1 (b) ~~In addition to the right to appointed counsel set forth above, The appointment of a~~
2 ~~guardian ad litem shall be appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to~~
3 ~~represent a~~ under this section for any parent who is under the age of 18 years and who is not
4 ~~married or otherwise emancipated. The appointment of a guardian ad litem under this subsection~~
5 shall not affect the minor parent's entitlement to a guardian ad litem pursuant to G.S. 7B-601 in
6 the event that the minor parent is the subject of a separate juvenile petition.

7 (c) On motion of any party or on the court's own motion, the court may appoint a guardian
8 ad litem for a parent who is incompetent in accordance with G.S. 1A-1, Rule 17. For an
9 unemancipated minor parent, a G.S. 1A-1, Rule 17, guardian ad litem may be appointed when
10 the parent is incompetent but shall not be appointed based solely on the parent being under the
11 age of 18.

12 (d) The parent's counsel shall not be appointed to serve as the guardian ad litem and the
13 guardian ad litem shall not act as the parent's attorney. Communications between the guardian ad
14 litem appointed under this section and the parent and between the guardian ad litem and the
15 parent's counsel shall be privileged and confidential to the same extent that communications
16 between the parent and the parent's counsel are privileged and confidential.

17"

18 **PART VI. EFFECTIVE DATE**

19 **SECTION 6.1.** Parts I, II, and III of this act become effective October 1, 2023.
20 Except as otherwise provided, the remainder of this act is effective when it becomes law.
21